

# EXHIBIT

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## Notes from 8/16/07 H2 Fund contract meeting

In attendance: John Chock, Ken Kitamura, MHK, PT

Discussion points:

### General

- MHK advised that inquiries regarding the award have been received both internal to department and from media.
- All concurred that RFP file should be complete of in light of potential media attention and any possible requests/protests that may be received.
  - Ken will check with ASO/Con to ensure all necessary documents are included.
  - He will notify TEL should decision document be needed.
- Ken agreed that ASO/Con will handle any briefings, possibly with attendance of review team member.

### Encumbrance

- Should not be a problem for investment capital and costshare since HSDC is able to "encumber" funds under a Partnership Agreement without Governor's written approval.
- Program management portion of fund has been specifically approved to contract.

Contract format -- Two separate contracts will be prepared.

### Program Management Services Contract

- DBEDT prepares.
- Process through ASO/Con as typical.

### Partnership Agreement

- H2Energy prepares initial, for review by DBEDT and AG/GK.
- Agreement should include the following:
  - Entire fund available but include "Not more than \$\_\_\_\_\_ will be drawn down during the period \_\_\_\_\_." or similar language due to limitation on current year allotment.
  - Cost-share provisions -- decision making structure (including DBEDT's role), continued oversight, etc.
  - Quarterly narrative and financial reports
  - Annual audits
  - Quarterly meetings (suggested but may be optional)
  - DBEDT's role on the investment committee as observer.
  - Relationship to/interface with renewable hydrogen program management services.
- May include other LPs if leverage will be provided in typical manner. If not, how will leverage be provided?
- Should also include performance measures to prevent non-action by fund manager.

- Need to determine performance measures, perhaps by asking H2Energy to suggest.
- May want to specify cost share allocation since fund manager will want to use funds for investment. Again, ask H2Energy.
- Verify investments must be made in Hawaii companies.
- Legal support --
  - Have H2Energy develop initial partnership agreement.
  - DBEDT uses AG/GK.
  - Ken suggests GK write to Comptroller to give assurance re. Partnership Agreement. ASO/Con should not have to review. (HSDC Agreements use outside counsel and are not processed through ASO/Con.)